

REMARKS

The pending independent claims have been amended to make clear that Applicant's inventions claimed herein monitor a frequency of *service-related* communications between clients and *human service providers*. Based upon that clarification and for the additional reasons provided below, the inventions recited in the pending claims are patentably distinct from the prior art of record. Applicant respectfully requests that the Examiner withdraw the rejections and pass the application to issuance.

In the Office Action, the Examiner rejected the pending claims under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,470,338 ("Rizzo"), in view of U.S. 2002/0038233 A1 ("Shubov") and U.S. Patent No. 5,964,839 ("Johnson"). With due respect, close consideration of these references shows that the unpatentability position should be withdrawn.

A. The Rizzo Reference Fails To Disclose Any System For Providing Services

The Examiner continues to consider that Rizzo discloses "receiving an agreement from said service provider to use a computer-based communication-enhancing system to provide services to the client." Office Action at 3-4. To the contrary, Applicant has confirmed that the entire system and disclosure of Rizzo relates only to facilities in the pre-service timeframe when a potential client is still looking for a service provider and when a service provider is still deciding whether to agree to provide services. Nothing in Rizzo relates to the later timeframe that concerns the actual providing of services. There is not a single word of disclosure in Rizzo that relates to any system or method that is actually used in the performance of services, let alone any agreement to use a service-enhancing or communication-enhancing system to provide services. Nor is there any disclosure in Rizzo of receiving any kind of agreement from a service provider to communicate with a client in accordance with a predetermined communication frequency. Nor is there any disclosure in Rizzo of monitoring a frequency of service-related communications between a service provider and a client.

B. The Shubov Reference Fails To Disclose Any System For Providing Services

In the Office Action, the Examiner pointed out that Rizzo does not disclose a means of monitoring a frequency of communications between a service provider and a client. Office Action at 4. The Examiner then points to Shubov for disclosing a means for tracking consumers and attorneys use of a matching system. Like the Rizzo system, the Shubov system also relates

only to the pre-service timeframe, discussing ways of assisting a client and lawyer to find each other. There is no discussion or disclosure in Shubov of any kind of system or method that is used to provide services. The Examiner has cited to Paragraph 153 of Shubov which says merely that after an attorney and a consumer agree on terms of service, they “may meet for an initial consultation” and “thereafter the attorney may agree to perform legal services for the consumer and the consumer compensates the attorney under the terms of the agreement.” There is no disclosure, suggestion or even hint at any kind of *service-enhancing or communication-enhancing system for providing services*.

The Examiner has also cited to Paragraphs 167-68 of Shubov which disclose the ability to count the number of times that an attorney’s profile is accessed by consumers who are looking for an attorney. That does not disclose or even suggest monitoring a frequency of service-related communications between a person who is actually providing services and a client. As with Rizzo, Shubov does not disclose or suggest receiving any kind of agreement from a service provider to communicate with a client in accordance with a predetermined communication frequency. Nor does Shubov disclose monitoring a frequency of service-related communications between a service provider and a client.

C. The Johnson Reference Fails To Disclose Monitoring A Frequency Of Service-Related Communications Between A Human Service Provider And A Client

The Johnson reference has nothing to do with facilitating or enhancing services provided by one person to another. Rather, the Johnson reference can only be read in the context of monitoring computer and machine communications using bi-directional data streams. Johnson’s disclosure is limited to a data monitor system for monitoring real-time data packets transmitted to and from a computer user and an on-line information service (e.g., “CompuServe or Prodigy” see Johnson col. 3, line 8).

Applicant has amended the claims to make clear that the claimed service provider is a human, not an on-line service like CompuServe or Prodigy. There is no disclosure or suggestion in Johnson of monitoring service-related communications between a human service provider and a client. Nor is there any disclosure or suggestion in Johnson of monitoring a frequency of communications between a human service provider and a client. Moreover, the Johnson disclosure is so far afield of monitoring service-related communications between a human

Appl. No. : 09/808,421
Filed : March 13, 2001

service provider and a client that it cannot fairly be regarded as the subject of a motivation to combine.

CONCLUSION

On the present record, no reference discloses or suggests any kind of service-enhancing or communication-enhancing system or method that is used to provide services. Moreover, no reference of record discloses or suggests monitoring service-related communications, much less between a human service provider and a client.

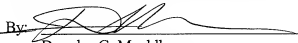
The present rejections are based on nothing more than two different matching systems – neither of which discloses any system or method for actually providing services – and one technique for real-time data monitoring of data packets between a computer and an on-line information service like Prodigy. Even if there were some proper motivation to combine these references, which Applicant contests, the entire collection of all three references (1) fails to disclose any agreement to use a service-enhancing or communication-enhancing system to provide services, (2) fails to disclose monitoring service-related communications between a human service provider and a client, and (3) fails to disclose monitoring a frequency of communications between a human service provider and a client. Nor does the entire collection of all three references even come close to suggesting any of these limitations. For that reason, all of the pending independent claims (1, 3, 74 and 75) are patentably distinct over the cited art, and, by definition, so are all of the dependent claims (2, 4, 5 and 6).

Applicant respectfully requests that the present application be passed to issuance. If there are any remaining impediments, the Examiner is invited to call the undersigned at the telephone number provided below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 3/27/07

By: 
Douglas G. Muehlhauser
Registration No. 42,018
Attorney of Record
Customer No. 20,995
(949) 760-0404